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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/132,479	08/11/1998	PATRICK YOUNG	32939-SB-S78	9496

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EXAMINER
TRAN, HAI V

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/132,479	Applicant(s) YOUNG ET AL.	
	Examiner Hai Tran	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 51-81 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 51-81 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 11 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Priority

Claims 52-54, 59, 69-70 and 76-77 claim only subject matter disclosed in prior Application 08/033,773 (patent US 5,353,121) filed on 03/19/93, and names an inventor or inventors named in the prior application. Therefore, the effective filing data of the instant claims 52-54, 59, 69-70 and 76-77 is 03/19/93.

Oath/Declaration

Applicant requests that the objection of the Oath/Declaration of the last Office action to be withdrawn is accepted.

Response to Arguments

Applicant's arguments with respect to claims 51-60 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claim 51, 55-56, 61-68, 71-75, and 78-81 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 5,808,608. Although the conflicting claims are not identical, they are not patentably distinct from each other because

Claim 51 corresponds to patent claims 1 and 2 of U.S. Patent No. 5,808,608 with the additional limitation of "the channel listing having indicators for at least some of the plurality of channels"; displaying the indicators for the channel listing on a monitor screen" and "arranging the indicators for the channel listing in a user determined order."

It would have been obvious to modify patent claims 1 and 2 to include this feature in order to give the user additional navigation capabilities that have a better presentation.

Allowance of claim 51 would result in the unwarranted time-use extension of the monopoly granted for the invention as defined in patent claims 1 and 2.

Claim 55 corresponds to patent claims 3-4.

Claim 56 corresponds to patent claim 5.

Claims 61-64 correspond to patent claims 2-5.

Claim 65 corresponds to patent claims 1 and 2 of U.S. Patent No. 5,808,608 with the additional limitation of "the order of displayed television program listings corresponds to at least a portion of the user determined channel listing order."

It would have been obvious to modify patent claims 1 and 2 to include this feature in order to give the user additional navigation capabilities that have a better presentation.

Allowance of claim 65 would result in the unwarranted time-use extension of the monopoly granted for the invention as defined in patent claims 1 and 2.

Claims 66-68 correspond to patent claim 1 and 2.

Claim 71 correspond to patent claims 1 and 2.

Claim 72 corresponds to patent claims 1 and 2 of U.S. Patent No. 5,808,608 with the additional limitation of "receive a user determined channel listing order and command the tuner to sequentially tune to a plurality of television channels in an order corresponding to the user determined channel listing order."

It would have been obvious to modify patent claims 1 and 2 to include this feature in order to give the user additional navigation capabilities that have a better presentation.

Allowance of claim 72 would result in the unwarranted time-use extension of the monopoly granted for the invention as defined in patent claims 1 and 2.

Claim 73-75 corresponds to patent claims 1 and 2.

Claims 78-79 correspond to patent claims 1 and 2.

Claim 80 corresponds to patent claims 1 and 2 of U.S. Patent No. 5,808,608 with the additional limitation of "means for receiving a user determined channel

listing order" and "wherein the order of displayed television program listings corresponds to at least a portion of the user determined channel listing order."

It would have been obvious to modify patent claims 1 and 2 to include this feature in order to give the user additional navigation capabilities that have a better presentation.

Allowance of claim 80 would result in the unwarranted time-use extension of the monopoly granted for the invention as defined in patent claims 1 and 2.

Claim 81 corresponds to patent claims 1 and 2 of U.S. Patent No. 5,808,608 with the additional limitation of "means for receiving a user determined channel listing order" and "means for sequentially displaying a plurality of television programs in an order corresponding to the user determined channel listing order."

It would have been obvious to modify patent claims 1 and 2 to include this feature in order to give the user additional navigation capabilities that have a better presentation.

Allowance of claim 81 would result in the unwarranted time-use extension of the monopoly granted for the invention as defined in patent claims 1 and 2.

2. Claims 57-58, 60 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 5,808,608 in view of Kawasaki (US 5,323,234).

Although the conflicting claims are not identical, they are not patentably distinct from each other because

Claim 57 corresponds to patent claims 1 and 2 of U.S. Patent No. 5,808,608 with the additional limitation of "a time and channel listing guide having a plurality of cells" and "wherein the plurality of channels in the channel listing are arranged in a user determined order."

Kawasaki discloses a listing guide having a plurality of cells (Fig. 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify patent claims 1 and 2 listing guide with plurality of cells, as taught by Kawasaki, so to give the user additional navigation capabilities that have a better presentation or to ease the selection of programs/channels by using the cursor/pointer of a remote control to navigate from one cell to another cell.

Allowance of claim 57 would result in the unwarranted time-use extension of the monopoly granted for the invention as defined in patent claims 1 and 2.

Claim 58 corresponds to patent claim 3.

Claim 60 corresponds to patent claim 3.

3. Claim 59 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 5,808,608 in view of Kawasaki (US 5,323,234) and further in view of Anderson et al. (US 5416895).

Claim 59 corresponds to patent claims 1 and 2 of U.S. Patent No. 5,808,608 in view of Kawasaki with the additional limitation "the arranging means comprises a movable cursor displayed on the guide to selectively highlight one of the plurality of channels whose order is to be changed, wherein the highlighted one of the plurality of channels is moved from the first location to a second location in the channel listing."

Anderson teaches a method of drag-and-drop techniques for selecting and copying or moving data among cells within a table (Fig. 4G, 4K, and 9B-C; Col. 10, lines 64-Col. 11, lines 6; Col. 11, lines 37-60; and Col. 18, lines 55-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify patent claims 1 and 2 in view of Kawasaki by using the well known technique of drag-and-drop, as taught by Anderson, in order to provide users a highly intuitive interface so users don't have to master an elaborate and/or awkward environment but instead, may rely upon his or her own common knowledge to organize and present information according to their needs (Col. 3, lines 35-40).

4. Claims 52-54, 69-70 and 76-77 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 5,808,608 in view of Anderson et al. (US 5416895).

Claims 52-54 correspond to patent claims 1 and 2 of U.S. Patent No. 5,808,608 with the additional limitation of "highlighting one of the plurality of channels and reordering the plurality channels in the channel listing by moving the

highlighted one of the plurality of channels from a first location to a second location in the channel listing"; "wherein the reordering step comprises dragging the highlighted one of the plurality of channels to the second location using a cursor"; and "wherein the reordering step comprises selecting a second location for the highlighted one of the plurality of channels and transferring the highlighted one of the plurality of channels from a first location to the second location in the channel listing."

Anderson teaches a method of drag-and-drop techniques for copying or moving data among cells within a table (Fig. 4G, 4K, and 9B-C; Col. 10, lines 64-Col. 11, lines 6; Col. 11, lines 37-60; and Col. 18, lines 55-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify patent claims 1 and 2 by using the well known technique of drag-and-drop, as taught by Anderson, in order to provide users a highly intuitive interface so users don't have to master an elaborate and/or awkward environment but instead, may rely upon his or her own common knowledge to organize and present information according to their needs (Col. 3, lines 35-40).

Claims 69-70 correspond to patent claims 1 and 2 of U.S. Patent No. 5,808,608 with the additional limitation of "highlighting one of the plurality of channels and dragging the highlighted one of the plurality of channels to the second location", "reordering the plurality channels in the channel listing by moving the highlighted one of the plurality of channels from a first location to a second location

in the channel listing"; "user selection of a new location for one of the plurality of channels, moving the one of the plurality of channel to the new location, and moving at least a portion of the plurality of channels one position in a predetermined direction."

Anderson teaches a method of drag-and-drop techniques for copying or moving data among cells within a table (Fig. 4G, 4K, and 9B-C; Col. 10, lines 64-Col. 11, lines 6; Col. 11, lines 37-60; and Col. 18, lines 55-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify patent claims 1 and 2 by using the well known technique of drag-and-drop, as taught by Anderson, in order to provide users a highly intuitive interface so users don't have to master an elaborate and/or awkward environment but instead, may rely upon his or her own common knowledge to organize and present information according to their needs (Col. 3, lines 35-40).

Claims 76-77 correspond to patent claims 1 and 2 of U.S. Patent No. 5,808,608 with the additional limitation of "highlighting one of the plurality of channels and dragging the highlighted one of the plurality of channels to the second location"; "by receiving user selection of a new location for one of the plurality of channels, moving the one of the plurality of channel to the new location, and moving at least a portion of the plurality of channels one position in a predetermined direction."

Anderson teaches a method of drag-and-drop techniques for copying or moving data among cells within a table (Fig. 4G, 4K, and 9B-C; Col. 10, lines 64-Col. 11, lines 6; Col. 11, lines 37-60; and Col. 18, lines 55-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify patent claims 1 and 2 by using the well known technique of drag-and-drop, as taught by Anderson, in order to provide users a highly intuitive interface so users don't have to master an elaborate and/or awkward environment but instead, may rely upon his or her own common knowledge to organize and present information according to their needs (Col. 3, lines 35-40).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is 703-308-7372. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

HT:ht
December 26, 2002

ANDREW FAILE
SUPERVISORY PATENT EXAMINER
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